

## **REMARKS**

Claims 1, 3-4, 8-9, 13-15, 37, 39-40, 44-45, and 49-51 are pending in the application.

Claims 19, 21-22, 26-27, and 31-33 are canceled. The remaining claims, i.e., claims 1, 3-4, 8-9, 13-15, 37, 39-40, 44-45, and 49-51 have been previously presented.

Claims 1, 3-4, 8-9, 13-15, 19, 21-22, 26-27, 31-33, 37, 39-40, 44-45, and 49-51 stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Publication No. 2002/0016760 to Pathak, in view of “Web Sites Help Small Companies Open Internet Stores-- E-Business Service Providers Offer Inexpensive Way to Try Something New”, by J. Tannenbaum, Wall Street Journal, NY April 25, 2000, hereinafter, Tannenbaum.

Applicants respectfully traverse the rejection based on the following discussion.

### **I. The 35 U.S.C. 103(a) Rejection over Pathak and Tannenbaum**

#### **A. The Pathak Disclosure**

[0001] It is a fact that Pathak discloses, "... an efficient method for trading dissimilar products. A method and apparatus for implementing a mechanism by which a combination of products may be exchanged among market participants. The market participants use an online/computerized auction/bidding system to trade their products. For businesses trying to dispose products, this type of mechanism will result in higher revenue for the seller and at the same time satisfies the buyer. For businesses trying to acquire products, this type of mechanism will result in lowering the cost of procuring products and at the same time satisfies sellers." (Abstract).

[0002] It is a fact that Pathak discloses, "The standard ascending auction process involves users bidding for a particular product, and the product is sold to the highest bidder. The aim here is for the seller of the product to sell at the maximum price." (Paragraph [0009], lines 4-8).

[0003] It is a fact that Pathak discloses, "There is a variation of auction/bidding called the reverse auction. In this type of auction, a buyer posts his wish to buy or procure product or goods or services (this could be a Tender or Request for Proposal (RFP) or Request for Quote (RFQ)). The sellers of the products then bid for it. In this type of auction/bidding the price of the

bid generally decreases during the time period of the auction/bidding process. The aim of the buyer here is to buy or procure products at the lowest price." (Paragraph [0010]).

[0004] It is a fact that Pathak discloses, "There is another variation of the auction/bidding process where the seller or buyer specifies a reserve price. In the case of the forward auction, the seller is going to sell the product only if the bid amount is greater than or equal to the reserve price otherwise the seller does not sell the product. In the case of reverse auction, the buyer wants to buy the product only if the bid amount of the seller is less than or equal to the reserve price otherwise the buyer does not want to buy the product." (Paragraph [0014]).

[0005] It is a fact that Pathak discloses, "In case of sellers selling items, the seller enters the items to be sold, the time the bidding process expires and any other information like shipping and handling costs, tax or any other cost associated with the trade. Buyers access the server data processing machine 104 and bid for the items. Once the bid is submitted, the server processing machine 104 communicates the information to the optimization program 105. The optimization program 105 then gathers all the data relevant to the data and starts processing to find the winning bids. The optimization program 105 updates the result into the database 106." (Paragraph [0033]).

[0006] It is a fact that Pathak discloses, "In case of buyers procuring items, the buyer enters the items to be sold, the time the bidding process expires and any other information like shipping and handling costs, tax or any other cost associated with the trade. Sellers access the server data processing system 104 and bid for the items. Once the bid is submitted, the server processing system 104 communicates the information to the optimization program 105. The optimization program 105 then gathers all the data relevant to the data and starts processing to find the winning bids. The software program updates the result into the database 106." (Paragraph [0034]).

[0007] It is a fact that Pathak discloses in Example 1, "For example, assume that a business wants to sell off excess inventory. The inventory consists of m items. Item 1 in Q.sub.1 quantity, Item 2 in Q.sub.2 quantity and Item 3 in Q.sub.3 . . . Item m in Q.sub.m quantity. The business is now asking for bids from potential buyers. This bid could be of any form like open-bid auction, sealed bid auction, dynamic bidding where market participants can update their bids

real-time. Regardless of the type used, the seller is trying to maximize his revenue by selling the inventory. Once the bids are received, the seller has to decide which bids to accept. Assume the seller receives following bids: Bid  $B_{sub.1}$  offering an amount of  $P_{sub.1}$  for items: Item 1 in  $Q_{sub.1.sup.1}$  quantity, Item 2 in  $Q_{sub.2.sup.1}$  quantity . . . Item  $m$  in  $Q_{sub.m.sup.1}$  quantity. •• Bid  $B_{sub.n}$  offering an amount of  $P_{sub.n}$  for items: Item 1 in  $Q_{sub.1.sup.n}$  quantity, Item 2 in  $Q_{sub.2.sup.n}$  quantity . . . Item  $m$  in  $Q_{sub.m.sup.n}$  quantity. It should be noted that quantity bid for each individual item  $i$  can be anything from zero (0) to quantity ( $Q_{sub.i}$ ) available for sale for that item. The seller wants to select bids that result in maximum revenue. This involves solving the following problem for: Maximize:  $P_{sub.1} * Y_{sub.1} + P_{sub.2} * Y_{sub.2} + \dots + P_{sub.n} * Y_{sub.n}$  Within Constraints:  $Q_{sub.1.sup.1} + Q_{sub.1.sup.2} + Q_{sub.1.sup.3} + \dots + Q_{sub.1.sup.n} \leq Q_{sub.-1}$   $Q_{sub.2.sup.1} + Q_{sub.2.sup.2} + Q_{sub.2.sup.3} + \dots + Q_{sub.2.sup.n} \leq Q_{sub.-2}$  ••  $Q_{sub.m.sup.1} + Q_{sub.m.sup.2} + Q_{sub.m.sup.3} + \dots + Q_{sub.m.sup.n} \leq Q_{sub.-m}$   $Y_{sub.1}$  either 0 or 1  $Y_{sub.2}$  either 0 or 1 ••  $Y_{sub.n}$  either 0 or 1

The above problem can be solved using any one of the optimization techniques like: linear programming, integer programming, domain reduction and constraint propagation, combinatorial optimization, genetic algorithms, simulated annealing or any other way for solving the problem that might be available. When for any  $n$ , if  $Y_n$  is 1, it means the seller will select the bid  $n$  and  $Y_n$  is zero (0) signifies that the bid  $n$  is not selected." (Paragraphs [0036]-[0050]).

## **B. The Tannenbaum Disclosure**

[0008] It is a fact that Tannenbaum discloses, "Specialized Web sites that help little companies go online almost instantaneously and at very little charge are fiercely competing for the attention of small-business owners. Just as midwives can aid pregnant women, these Web sites increasingly help small businesses start online ventures. Besides hosting Web pages or arranging for hosting through a third party, they provide e-commerce tools and related services – often without charge. The services, called e-business service providers, which began appearing about two years ago, are proliferating fast. Now there are more than a dozen sites, such as Bigstep.com ("Where e-business is everybody's business") and BizLand.com Inc. ("Imagine your success. We do."). (Abstract).

[0009] It is a fact that Tannenbaum discloses, "And the longevity of some service providers is a question. Most have yet to find a way to make money. They are spending heavily now in anticipation of finding a profitable angle later – such as selling sufficient advertising to third parties or upgrading clients to paid services." (Ninth complete paragraph).

### **C. Argument**

[0010] The Final Action, mailed November 25, 2008, states that in regard to independent claims 1, 19, and 37, Pathak teaches the claim elements of: "updating said online database of costs related to said first online bid and calculating a first bid's end-to-end costs related to said first online bid (sections 033); ... updating said online database of costs related to said second online bid and calculating a second bid's end-to-end costs related to said second online bid (sections 033)." (Final Action, page 3, lines 3-7).

[0011] However, paragraph [0033] of Pathak states, "In case of sellers selling items, the seller enters the items to be sold, the time the bidding process expires and any other information like shipping and handling costs, tax or any other cost associated with the trade. Buyers access the server data processing machine 104 and bid for the items." (Paragraph [0033], first two sentences). Although Pathak discloses that in the case of sellers selling items, the seller may enter "any other information like shipping and handling costs, tax or another cost associated with the trade", nowhere does Pathak explicitly enter this any other information like shipping and handling costs, etc. to calculate a first bid's end-to-end costs related to the first online bid, as clearly described by the third claim element of independent claim 1 of the invention.

[0012] In fact, Pathak's examples 1 (paragraphs [0036]-[0050]) and 2 (paragraphs [0051]-[0076]) only mention prices, i.e., bids and offers, and amounts. Nowhere does Pathak explicitly disclose entering this any other information like shipping and handling costs, etc. to calculate a first bid's end-to-end costs related to the first online bid, as clearly described by the invention.

[0013] Instead, Pathak but discloses, "In case of sellers selling items, the seller enters the items to be sold, the time the bidding process expires and any other information like shipping

and handling costs, tax or any other cost associated with the trade. Buyers access the server data processing machine 104 and bid for the items." (Paragraph [0033], first two sentences).

[0014] The present invention clearly describes the conventional manner in which costs, like shipping costs, are handled, i.e., "Most online markets handle physical delivery issues on a 'post-transaction' basis, i.e., the shipping costs (and other similar costs) are added to the base product price once the transaction (to buy or sell) is finalized to arrive at the total price for the buyer." (Specification, page 1, lines 30-32).

[0015] Pathak could just as easily be handling 'post-transaction' costs, i.e., shipping costs (and other similar costs) by adding these costs once the transaction is finalized, as in the conventional manner. In fact, Pathak is silent as to what he does with this information like shipping and handling costs. Applicants respectfully submit that it is but speculation on the part of the Office Action that these 'post-transaction' costs are used to calculate a first bid's end-to-end costs related to the first online bid, as clearly described by the third claim element of independent claims 1, 19, and 37 of the invention.

[0016] Similarly, nowhere does Pathak explicitly enter this any other information like shipping and handling costs, etc. to calculate a second bid's end-to-end costs related to the second online bid, as clearly described by the fifth claim element of independent claims 1 of the invention.

[0017] Again, Pathak could just as easily be handling 'post-transaction' costs, i.e., shipping costs (and other similar costs) by adding these costs once the transaction is finalized, as in the conventional manner. In fact, Pathak is silent as to what he does with this information like shipping and handling costs. Applicants respectfully submit that it is but speculation on the part of the Office Action that these 'post-transaction' costs are used to calculate a second bid's end-to-end costs related to the second online bid, as clearly described by the fifth claim element of independent claims 1 and 37 of the invention.

[0018] Tannenbaum does not cure the deficiencies of Pathak.

[0019] Nowhere does Tannenbaum disclose, teach or suggest at least the present invention's features of: "updating said online database of costs related to said first online bid and calculating a first bid's end-to-end costs related to said first online bid; ... updating said online

database of costs related to said second online bid and calculating a second bid's end-to-end costs related to said second online bid", as recited in independent claims 1 and 37 of the invention.

[0020] Instead, Tannenbaum merely discloses that e-commerce sites may be offered without charge.

[0021] For at least the reasons outlined above, Applicants respectfully submit that Pathak and Tannenbaum, either individually or in combination, do not disclose, teach or suggest at least the present invention's features of: "updating said online database of costs related to said first online bid and calculating a first bid's end-to-end costs related to said first online bid; ... updating said online database of costs related to said second online bid and calculating a second bid's end-to-end costs related to said second online bid", as recited in independent claims 1 and 37. Accordingly, Pathak and Tannenbaum, either individually or in combination, fail to render obvious the subject matter of independent claims 1 and 37, and dependent claims 3-4, 8-9, 13-15, 39-40, 44-45, and 49-51 under 35 U.S.C. §103(a). The rejection of canceled claims 19, 21-22, 26-27, and 31-33 is moot. Withdrawal of the rejection of claims 1, 3-4, 8-9, 13-15, 37, 39-40, 44-45, and 49-51 under 35 U.S.C. §103(a) as unpatentable over Pathak and Tannenbaum is respectfully solicited.

## **II. Formal Matters and Conclusion**

Claims 1, 3-4, 8-9, 13-15, 37, 39-40, 44-45, and 49-51 are pending in the application.

With respect to the rejections of the claims over the cited prior art, Applicants respectfully argue that the present claims are distinguishable over the prior art of record. In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections to the claims.

In view of the foregoing, Applicants submit that claims 1, 3-4, 8-9, 13-15, 37, 39-40, 44-45, and 49-51, all the claims presently pending in the application, are patentably distinct from the prior art of records and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest time possible.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary.

Please charge any deficiencies and credit any overpayments to Attorney's Deposit Account Number 09-0441.

Respectfully submitted,

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